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09/466,438	12/17/1999	VIKTORS BERTIS	AT9-99-725	1165
45502	7590	06/19/2009		
DILLON & YUDELL LLP 8911 N. CAPITAL OF TEXAS HWY., SUITE 2110 AUSTIN, TX 78759			EXAMINER FELTEN, DANIEL S	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
6

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8 *Ex parte* VIKTORS BERTSIS
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11 Appeal 2009-001835
12 Application 09/466,438
13 Technology Center 3600
14

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16 Decided:¹ June 19, 2009
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19 *Before:* TERRY J. OWENS, MURRIEL E. CRAWFORD, and JENNIFER
20 D. BAHR, *Administrative Patent Judges.*

21
22 CRAWFORD, *Administrative Patent Judge.*
23

24
25 DECISION ON APPEAL
26

27 STATEMENT OF THE CASE

¹The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

Appellant appeals under 35 U.S.C. § 134 (2002) from a final rejection of claims 1 to 6, 8 to 10, 13 to 23, and 25. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Appellant invented a method and system for triggering enhanced security verification in response to atypical selections at the service-oriented user interface terminal (Specification 1).

Claim 1 under appeal reads as follows:

1. A method for automatically authorizing a remote point of purchase action at a facility which permits such actions, said method comprising the steps of:
 - storing selections of goods and/or services made by an authorized user during a previous transaction;
 - prompting a user with options for selecting goods and/or services during a current transaction at the facility;
 - comparing the options for goods and/or services selected by the user with the user's prestored selections of goods and/or services;
 - requiring the user to answer a security-related question if the options for goods and/or services selected by the user are inconsistent with the user's prestored selections of goods and/or services; and
 - thereafter permitting the current transaction only if the user correctly answers said security-related question.

The Examiner rejected claims 1 to 4, 6, 8, 9, 13 to 17, 18 to 21, 23, and 25 under 35 U.S.C. § 103(a) as being unpatentable over Findley in view of French.

1 The Examiner rejected claims 5, 10, and 22 under 35 U.S.C. 103(a) as
2 being unpatentable over Findley in view of French and further in view of
3 Penzias.

4 The prior art relied upon by the Examiner in rejecting the claims on
5 appeal is:

6 Penzias	US 5,311,594	May 10, 1994
7 Findley	US 6,108,642	Aug. 22, 2000
8 French	US 6,496,936 B1	Dec. 17, 2002

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10 ISSUE

11 Has the Appellant shown that the Examiner erred in finding that the
12 prior art teaches or suggests requiring the user to answer correctly, multiple
13 security-related questions if the options for goods and/or services selected by
14 the user are inconsistent with a user's prestored selection of goods and/or
15 services?

16
17 FINDINGS OF FACT

18 Findley discloses a system which compares the purchase request of a
19 user with the purchase request history of the user based in part on the origin
20 of the request and the card number used in the request (col. 3, ll. 29 to 53).
21 The system uses a logic subsystem to determine the amount of purchases
22 which are allowed during a particular period of time (col. 4, ll. 29 to 31).
23 History factors which include origin history factors and card number history
24 factors are utilized in the determination (col. 4, ll. 1 to 25). The system
25 automatically blocks a purchase if the goods of the current purchase request
26 match the goods of a previous purchase request and the purchase is
27 requested within the set period of time (col. 2, ll. 40 to 42). As such, Findley

1 blocks purchase requests for goods that are the same or *consistent* with
2 goods purchased in the past. The goal is to prevent sophisticated remote
3 purchase thieves from stealing a sizable quantity of a particular product (col.
4 4, ll. 53 to 56).

5 French discloses an authentication system which performs a first level
6 of authentication by asking a security question based on a first type of
7 information and based on the results of the first level of authentication
8 determines whether to perform a second level of authentication (col. 2, ll. 15
9 to 20). The first type of information includes name, address, driver's license
10 or other information that may be commonly carried on the person (col. 3, ll.
11 23 to 26). The first level authentication process compares the degree of
12 match between the first type of information and the known data about the
13 user from other sources (col. 3, ll. 29 to 32). The second level of
14 authentication is in the form of a security question based on a second type of
15 information that includes non-wallet type information from the user. The
16 second level authentication may ask for a lender's name and the amount of
17 an identified loan and offer a number of choices for each of the lender's
18 name and the correct payment amount, only one of which is correct (col. 3,
19 ll. 37 to 39; 58 to 61).

20 21 PRINCIPLES OF LAW

22 In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the
23 Examiner to establish a factual basis to support the legal conclusion of
24 obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). In so
25 doing, the Examiner must make the factual determinations set forth in
26 *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966). Furthermore, “[‘]there

1 must be some articulated reasoning with some rational underpinning to
2 support the legal conclusion of obviousness' [H]owever, the analysis
3 need not seek out precise teachings directed to the specific subject matter of
4 the challenged claim, for a court can take account of the inferences and
5 creative steps that a person of ordinary skill in the art would employ.” *KSR*
6 *Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (quoting *In re Kahn*, 441
7 F.3d 977, 988 (Fed. Cir. 2006)).

8
9 ANALYSIS

10 We will not sustain the rejection of claim 1 under 35 U.S.C. § 103 as
11 being unpatentable over Findley in view of French because neither reference
12 discloses or suggests requiring the user to answer a security-related question
13 if the options for goods and/or services selected by the user are inconsistent
14 with the user’s prestored selections of goods and/or services which is a
15 requirement of claim 1 on appeal. Findley teaches a method that blocks a
16 purchase if the goods and/or services are *consistent* with prestored selections
17 of goods and/or services. While the Examiner is correct that card numbers
18 and origins that are inconsistent with prestored history factors are detected in
19 the Findley method, such inconsistency is utilized in calculating the amount
20 of purchases allowed during a specific time period rather than to block the
21 purchase or to require a second authentication process.

22 French does require a second authentication process in the form of
23 requiring the user to answer a security-related question in response to
24 inconsistency in the first level authentication, however, the inconsistency is
25 between information given in response to the first security question and
26 known data from other sources. The information includes information such

1 as name, address and driver's license number. French does not compare the
2 goods and/or services selected with prestored selections of goods and/or
3 services as required by claim 1. As such we will not sustain this rejection as
4 it is directed to claim 1 and claims 2 to 4, 6, and 8 dependent thereon.

5 Independent claims 9, 14, and 18 also recite that a security question is
6 asked if the option for goods and/or services selected by the current user do
7 not match a user profile, previous selections, and prestored selections of
8 goods and/or services. As such each of these claims requires that a security
9 question be asked based on an inconsistency related to the selected goods
10 and services. Therefore, we will also not sustain the rejection as it is
11 directed to claims 9, 14, and 18 and claims 13, 15 to 17, 19 to 21, 23, and 25
12 dependent thereon.

13 We will also not sustain the rejection of claims 5, 10, and 22 under 35
14 U.S.C. § 103(a) as being unpatentable over Findley in view of French and
15 Penzias because these claims depend from claims 1, 9, and 18 respectively
16 and thus require that a security question be asked if an inconsistency related
17 to goods and/or services selected by the current user is detected. Penzias is
18 not relied on by the Examiner to teach this subject matter and in any case
19 does not cure the deficiency noted above for the combined teachings of
20 Findley and French.

21 CONCLUSION OF LAW

22 On the record before us, Appellant has shown that the Examiner erred
23 in rejecting claims 1 to 6, 8 to 10, 13 to 23, and 25.
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DECISION

The Examiner's decision is reversed.

REVERSED

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DILLON & YUDELL, LLP
8911 N. CAPITAL OF TEXAS HWY.
SUITE 2110
AUSTIN, TX 78759